

Senator Dan Harrington

SB 306

Opening Statement

Mr. Chairman and members of the committee, after over 30 years of public service, I begin the conclusion of my public duties fighting for an issue that I fought for when I began my service as a member of the Montana Constitution Convention in 1972. I am pleased to introduce Senate bill 306, an act to abolish the death penalty in Montana and replace it with life imprisonment without possibility of release.

Let's talk for just a moment about the actual execution of a life. Few of us will ever have to witness that sort of horrific event. But imagine, if you will, that you are there. The first thing that is called to mind is that the executioner remains anonymous. His identity is hidden, for several reasons - and one of them is symbolic. Traditionally, the executioner wears a hood as an emblem that *every* adult Montanan, collectively, imposes the ultimate penalty on those convicted of capital crimes. Have you thought of your own hand putting these people to death? Because it *is* your hand, and mine – and every adult Montanan that communally signals the end of a human life. Do we, as lawmakers, have the right to demand that every Montanan perpetuate this ugly tradition?

This is the gravest of all matters that can ever come before you – it is the **very** solemn matter of life and death. And shouldn't **life** be every lawmaker's default vote, unless compelling and convincing arguments are presented to justify incurring death?

To vote to **retain** the death penalty, to vote to *preserve* the status quo, you must be absolutely sure – **absolutely** sure – on behalf of yourself **and** your constituents **and** every citizen of the state of Montana – that the system is equitably and fairly enforced – whether the defendant be black or white or brown or red, whether the defendant be poor or rich or well-connected or not. We owe it to the people of Montana, as legislators, to provide the framework for a legal system which administers impartial and unbiased justice. And yet, only 2% of people convicted of homicides are sentenced to death. ***Is that fair?***

Those who are poor are more likely to be convicted of a capital crime because they cannot afford quality legal representation. ***Is that fair?***

Those who kill a white victim – as opposed to any other race – are more likely to be convicted of a capital crime. ***Is that fair?*** Scholars have shown time and time again that the death penalty is not now, has never been, and can never be applied fairly.

Fellow senators, you must be **absolutely sure** that there **is no chance** that an innocent person could be executed. And yet, 123 people on death row in America have been exonerated of the crime for which they were accused. It took those who were exonerated an average of **nine years** of incarceration to prove their innocence.

A 1987 study detailed 23 cases where innocent people had already been executed. The rate at which innocence occurs means that if Montana continues to impose death sentences, it is not a question of **will** an innocent person be put to death but **when** an innocent person will be put to death.

You must be **absolutely sure** that the death penalty deters crime, if that is its purpose. And yet, a 2004 study by an economist, Joanna M. Shepherd, showed that executions have **no effect** on murders in Montana.

You must be **absolutely sure** that the excess dollars we expend to perpetuate a barbaric system of punishment are not better spent on other areas of public safety, areas that have **proven** to have real and meaningful results such as more public safety officers and better equipment. Life without parole provides a less costly, more expedient, and safer way to permanently protect members of the community from convicted murderers – and it is, in fact **cheaper** than capital punishment. **Every** state that has ever undertaken a cost study of its death penalty system has found capital cases to be substantially more expensive than cases where prosecutors seek lengthy prison sentences. And **46%** of those who were convicted in Montana in the lengthy and costly capital trial process since 1976 were **eventually resentenced to an extended life sentence anyway!** As we stand here today, fellow senators, there is **NO** budget item for death penalty cases – that means that when a prosecutor requests a death sentence, those heavy death penalty expenditures are extracted from other governmental budgets for sentences that are unlikely to be carried out anyway. **Is that fiscal responsibility?**

You must be **absolutely sure** that the best way for families of murder victims is not the certain, swift sentence of Life Without Parole, but the long and rocky road of capital sentencing and appeals. You must be **absolutely sure** that their best interests are at heart when convicted murders can dominate the media spotlight again and again and again, instead of being segregated to a lonely and long life in prison, with the full understanding that they have been judged unfit to enter society ever again.

And lastly – and perhaps most importantly – you must be **absolutely sure** that our belief in human life is such that we teach our children that to prevent violence, we beget violence, that legalized murder is the answer to unlawful murder.

Of **all** these things, you must be sure – for this is the gravest matter of life and death. I am confident that the death penalty is one sentence that you cannot – when all the facts are on the table -- retain.

Thank you for your attention, Mr. President, I reserve the right to close.